IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

GIFT TAX REFERENCE No 1 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF GIFT-TAX

Versus

GAUTAM SARABHAI

Appearance:

1. GIFT TAX REFERENCE No. 1 of 1990
MR MANISH R BHATT for Petitioner No. 1
MR RK PATEL, for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE K.A.PUJ

Date of decision: 27/06/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question is referred for our opinion in respect of assessment year 1973-74 :-

"Whether, in law and on facts, the Appellate Tribunal was right in directing the Gift-tax Officer to adopt the same value of the flat in the case of the assessee as was determined under the Wealth-tax Act, on the basis of application of Rule contained in Rule 1BB of the Wealth-tax Rules ?"

2. Heard Mr Manish R Bhatt, learned senior standing counsel for the Income-tax Department and Mr RK Patel, learned counsel for the respondent-assessee.

3. Our attention is invited to the decision of this Court dated 24.6.2002 in Gift-tax Reference No. 1 of 1989 wherein dealing with the same controversy, this Court has held that Rule 1BB of the Wealth-tax Rules, 1957 is required to be applied while determining the value of the property for the purpose of gift tax as well.

Following the aforesaid decision, we answer the question referred to us in the affirmative i.e. in favour of the assessee and against the revenue.

4. The reference accordingly stands disposed of with no order as to costs.

(M.S. Shah, J.) (K.A. Puj, J.)

sundar/-